

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

DAVID RAY BOLTON
TX-1320117-G

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DOCKETED COMPLAINT NO. 11-160

AGREED FINAL ORDER

On this the _____ day of _____, 2011, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of David Ray Bolton, (Respondent). The Board makes the following findings of fact and conclusions of law and enters this Order:

In order to conclude this matter David Ray Bolton neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein and further agrees to the disciplinary action set out in this Agreed Final Order. The Board makes the following findings of fact and conclusions of law and enters this Order in accordance with TEX. OCC. CODE § 1103.458:

FINDINGS OF FACT

1. Respondent David Ray Bolton is a state certified general real estate appraiser and has been certified by the Board during all times material to this complaint.
2. Respondent is subject to the jurisdiction of the Board, the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE Chapter 1103 (Vernon 2007) (the Act), the Rules of the Board, 22 TEX. ADMIN. CODE §§153, 155, 157 (West 2007) (the Rules), and the Uniform Standards of Professional Appraisal Practice (USPAP) in effect at the time of the appraisal.
3. Respondent appraised real property located at 8003 Fredericksburg Road, San Antonio, Texas ("the property") on or about June 21st, 2010.
4. On or about December 15th, 2010, a staff-initiated complaint was filed with the Board based on allegations that the Respondent had produced an appraisal report that did not comply with the USPAP.
5. On or about December 15th, 2010, the Board, in accordance with the mandate of the Administrative Procedure Act (the APA), TEX. GOV'T CODE ANN. Chapter 2007, notified Respondent of the nature and accusations involved and Respondent was afforded an opportunity to respond to the accusations alleged by the Complainant. Respondent's response to the complaint was received.

6. Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal report for the property:

- a) Respondent failed to comply with the conduct provisions of the Ethics Rule and USPAP Standards 2-3, 2-2(b)(vii), 1-1(b) and 2-1(a) by making material misrepresentations in his appraisal report indicating that no significant professional assistance was provided by another individual even though he knew that his appraiser trainee had actually provided significant professional assistance in preparing the appraisal. Respondent knew he was required to affirmatively disclose the appraiser trainee's involvement, as well as the extent of the assistance the appraiser trainee provided, but Respondent failed to do any of this.

7. Respondent omitted material facts and made material misrepresentations in the appraisal report for the property as detailed above.

8. The parties enter into the following consent order in accordance with TEX. OCC. CODE § 1103.458.

CONCLUSIONS OF LAW

1. The Texas Appraiser Licensing and Certification Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103.451-1103.5535.

2. Respondent violated the following provisions of USPAP as prohibited by 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3): USPAP Ethics Rule (conduct provisions); USPAP Standards Rules: 2-3, 2-2(b)(vii), 1-1(b) and 2-1(a).

3. Respondent violated 22 TEX. ADMIN. CODE § 153.20(a)(9) by making material misrepresentations and omitting material facts.

4. The parties are authorized to resolve their dispute by means of a consent order in accordance with TEX. OCC. CODE § 1103.458.

Based on the above findings of fact and conclusions of law, the Board **ORDERS** that the Respondent shall:

- 1) Attend and complete a minimum, 15 classroom-hour course in USPAP;
- 2) Pay the Board an administrative penalty of \$1,500.00, \$500.00 of which is hereby probated under the following conditions:
 - a. Within 30 days of completing the above-noted remedial education, Respondent shall submit to the Board a signed and dated, two page, written report explaining: (i) the

USPAP Ethics Rule; (ii) what provisions he violated due to his conduct in this complaint and (iii) how he intends to modify his future real estate appraisal activities to avoid such violations in the future; and

- 3) Comply with all future provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

ALL CLASSES required by this Agreed Final Order must be classes approved by the Board and must be completed within **SIX MONTHS** of the date of this Order and documentation of attendance and successful completion of the educational requirements of this Order shall be delivered to the Board on or before the end of the six-month period indicated. None of the classes or seminars required by this Order may be taken through correspondence courses. Unless otherwise noted above, all classes must be in-class, have an exam, and Respondent must have a passing grade on the exam given in each class. None of these required classes will count toward Respondent's continuing education requirements for certification. Respondent is solely responsible for locating and scheduling classes to timely satisfy the terms of this agreement.

Payment of the **ADMINISTRATIVE PENALTY** must be by certified funds, and must be tendered within **TWENTY DAYS** of the date of this Agreed Final Order.

Failure to comply with any of the terms of this Agreed Final Order within the time allotted shall result in **IMMEDIATE SUSPENSION** of the Respondent's certification and imposition of the remaining, probated portion of the administrative penalty, pursuant to notice to the Respondent from the Board indicating that the Respondent has not fulfilled the requirements of this Agreed Final Order.

ANY SUCH SUSPENSION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE TEXAS APPRAISER LICENSING AND CERTIFICATION ACT OR THE ADMINISTRATIVE PROCEDURE ACT, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS. Respondent shall be notified of any such suspension or lifting of probation by certified mail, return receipt requested, to the last known address as provided to the Board. If Respondent's certification is suspended on such a basis, the suspension shall remain in effect until such time as Respondent pays the Administrative Penalty or takes and passes the required educational courses and provides adequate documentation of same to the Board.

Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing and any right to seek judicial review of this Agreed Final Order. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's web site.

THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been


delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

Signed this 22 day of MARCH, 2011.


DAVID RAY BOLTON

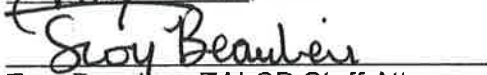

TED WHITMER, ATTORNEY
FOR RESPONDENT

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 22 day of march, 2011, by DAVID RAY BOLTON, to certify which, witness my hand and official seal.


Notary Public Signature
Carly Whitmer
Notary Public's Printed Name




Signed by the Standards and Enforcement Services Division this 19th day of MAY, 2011.


Troy Beaulieu, TALCB Staff Attorney

Signed by the Commissioner this 20th day of May, 2011.


Douglas Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 20th day of May, 2011.


Luis De La Garza, Chairperson
Texas Appraiser Licensing and Certification Board